



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10**

1200 Sixth Avenue, Suite 155  
Seattle, WA 98101-3188

ENFORCEMENT &  
COMPLIANCE ASSURANCE  
DIVISION

Reply To: 20-C04

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Mr. Terry Black  
Partner  
Ace Black Ranches, LLP  
28892 Hot Springs Road  
Bruneau, Idaho 83604

Re: INFORMATION REQUEST for Ace Black Ranches, LLP - Bruneau, Idaho

Dear Mr. Black:

The U.S. Environmental Protection Agency (EPA), Region 10, is seeking information regarding the property located at 28892 Hot Springs Road in Bruneau, Idaho ("Facility") owned or operated by Ace Black Ranches, LLP ("Respondent"). The enclosed Information Request is being issued to Respondent pursuant to Section 308 of the Clean Water Act (CWA), 33 U.S.C. § 1318.

EPA has been notified of alleged violations of the CWA involving the unauthorized discharge of dredged and/or fill material into the Bruneau River, sloughs/tributaries to the Bruneau River, and wetlands adjacent to the Bruneau River and its sloughs/tributaries in Owyhee County, Idaho. The U.S. Army Corps of Engineers' records do not identify a permit issued under CWA Section 404, 33 U.S.C. § 1344, or an application for this work activity. EPA is also aware of other potential discharges from the Facility without authorization by a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to CWA Section 402, 33 U.S.C. § 1342. EPA is seeking information related to these alleged CWA violations at the Facility.

Section 308 of the CWA, 33 U.S.C. § 1318 authorizes EPA to require the submission of records, reports and other information for the purpose of determining whether any violations of the CWA have occurred and to carry out any other provision of the CWA. **By this letter, Respondent is required to provide information and documents in accordance with the enclosed Information Request (Enclosure 1) within 30 days of your receipt of this request.**

To aid EPA's timely review of your responses, EPA prefers that you submit responses to this Information Request via an electronic submission. For instructions on submitting your response electronically, refer to Instruction A.8 in Enclosure 1 and contact Charissa Bujak at [bujak.charissa@epa.gov](mailto:bujak.charissa@epa.gov) or at (208) 378-5754 should you have any questions regarding those instructions.

Please ensure the Statement of Certification (Enclosure 2) is signed by you or a duly authorized officer or agent of Respondent and returned with the response to this Information Request.

Failure to respond fully and truthfully to this Information Request in a timely manner may subject you to an enforcement action for civil penalties pursuant to Section 309 of the CWA, 33 U.S.C. § 1319. In addition, provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. § 1001. The information provided in response to this Information Request may be used by EPA in administrative, civil, or criminal proceedings.

EPA's Small Business Resources Information Sheet provides information on compliance assistance that may be helpful to you. The attached information sheet provides information on compliance assistance that may be available to you (Attachment 1). For more information about the CWA regulations and requirements, please visit the EPA's webpage: <https://www.epa.gov/enforcement/water-enforcement>.

Thank you for your cooperation in this important matter. For questions concerning this Information Request, please contact Charissa Bujak, Case Developer, at [bujak.charissa@epa.gov](mailto:bujak.charissa@epa.gov) or at (208) 378-5754. For legal questions, please have your attorney contact Patrick Johnson, Assistant Regional Counsel, at [johnson.patrick@epa.gov](mailto:johnson.patrick@epa.gov) or at (206) 553-6905.

Sincerely,

Jeff KenKnight, Chief  
Water Enforcement and Field Branch

Enclosures

cc: Mr. Telby Black  
Ace Black Ranches, LLP

Ms. Kelly Urbanek  
Regulatory Division Chief, U.S. Army Corps of Engineers, Walla Walla District

Ms. Tracy Peak  
Regulatory Division Deputy Chief, U.S. Army Corps of Engineers, Walla Walla District

Mr. William Schrader  
Project Manager, U.S. Army Corps of Engineers, Walla Walla District

Mr. Aaron Golart  
Stream Channel Protection Specialist, Idaho Department of Water Resources

Mr. Derek Kraft  
Senior Research Specialist, Idaho Department of Lands

Mr. Frank Edelmann  
Wildlife Habitat Program Coordinator, Idaho Department of Fish and Game

**Enclosure 1**  
**CWA INFORMATION REQUEST**

This information is requested pursuant to Section 308 of the Clean Water Act (CWA), 33 U.S.C. § 1318.

**A. INSTRUCTIONS**

1. Provide a separate narrative response to each question and subpart of a question in this Information Request. Mark each answer with the number of the question (and subpart, if applicable) to which it corresponds.
2. For each question, provide a copy of each document relied on or referred to in the preparation of the response or that contains information responsive to the question.
3. Indicate on each document produced in response to this Information Request, or in another reasonable manner, the number of the question to which it corresponds.
4. If requested information or documents are not known or are not available to you at the time of your response to this Information Request, but later become known or available to you, you must supplement your response to EPA. Moreover, if you find at any time after submission of your response that any portion is or becomes false, incomplete, or misrepresents the facts, you must provide EPA with a corrected response as soon as possible.
5. Provide the name, title, and business contact information for each person who prepared or was consulted in the preparation of your response. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any question contained herein, or who may be able to provide additional responsive documents, provide the name, title, and business contact information for each such person and the additional information or documents that they may have.
6. If you believe a question is not applicable to the Facility, explain the reason for that belief.
7. The information requested herein must be provided whether or not you regard part or all of it as a trade secret or confidential business information. You may assert a confidentiality claim covering part or all of the information submitted, pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, and 40 C.F.R. Part 2, by labeling such information at the time it is submitted to EPA as “trade secret,” “proprietary,” “company confidential,” or other suitable notice.

Information covered by such a claim will be disclosed by EPA only to the extent and by the procedures set forth in statutes and 40 C.F.R. Part 2, Subpart B. Note that certain categories of information are not entitled to confidential treatment. Unless you make a claim at the time you submit the information in the manner described in 40 C.F.R.

§ 2.203(b), it may be made available to the public by EPA without further notice to you. See also 41 Fed. Reg. 36902 (Sept. 1, 1976).

8. To aid electronic recordkeeping efforts, EPA prefers you provide all documents responsive to this Information Request in electronic format in accordance with a) through f), below. These electronic submissions are in lieu of hard copy. EPA uses a service (GoAnywhere) to receive large amounts of electronic information. When Respondent has compiled responsive documents and is ready to submit its information, alert Charissa Bujak at [bujak.charissa@epa.gov](mailto:bujak.charissa@epa.gov) and she will initiate the file transfer request. You will then receive via email a system generated upload files request.
  - a) Provide all responsive documents in Portable Document Format (PDF) or similar format, unless otherwise requested in specific questions. If the PDFs are scanned images, perform at least Optical Character Recognition (OCR) for “image over text” to allow the document to be searchable. Submitters providing secured PDFs should also provide unsecured versions for EPA use in repurposing text.
  - b) When specific questions request data in electronic spreadsheet form, provide the data and corresponding information in editable Excel format, and not in image format. If Excel formats are not available, then the format should allow for data to be used in calculations by a standard spreadsheet program such as Excel.
  - c) Provide a table of contents for electronic documents submitted in response to our request so that each document can be accurately identified in relation to your response to a specific question. We recommend the use of electronic file folders organized by question number.
  - d) Documents claimed as confidential business information (CBI) must begin with the file name CBI, followed by the rest of the file name. This will facilitate appropriate records management and appropriate handling and protection of the CBI. Please also mark each page that is confidential business information as such.
  - e) Include a statement certifying the attached files have been scanned for viruses and indicate what program was used.
  - f) Upload the files to GoAnywhere in .zip format. If the .zip file is larger than 10GB, create smaller .zip files (part 1, part 2, part3, etc.).

## B. DEFINITIONS

All terms used in this Information Request have their ordinary meaning unless such terms are defined in this Information Request or in CWA Section 502, 33 U.S.C. § 1362, 40 C.F.R. Part 122, or 33 C.F.R. Parts 323 and 328. For purposes of this Information Request:

1. The terms “you” or “Respondent” mean Ace Black Ranches, LLP, and its subsidiaries, officers, directors, managers, partners, employees, contractors, and agents, as applicable.
2. “Facility” means the property owned or operated by Respondent, including Parcel Numbers: RP06S06E305700, RP06S05E254820, RP06S05E254810, RP06S05E360001, RP06S06E312400, RP06S06E301450, RP06S06E301211, and RP06S06E301211, located at 28892 Hot Springs Road in Bruneau, Idaho.

3. "Document" means any object that records, stores, or presents information, and includes writings, records, or information of any kind, formal or informal, whether wholly or partially handwritten or typed, whether in computer format, memory, or storage device, or in hard copy, including any form or format of these. If in computer format or memory, each such document shall be provided in translation to a form useable and readable by EPA, with all necessary documentation and support. Include all attachments to or enclosures with any responsive document.
4. The term "work activity" means any and all construction, excavation, diversion, clearing, grading, ditching, ponding, side casting, filling, dredging, hauling, and the placement of rock, sand, gravel, concrete, asphalt, soils, overburden, woody slash/debris, construction debris, garbage or any other fill material, dredged material, or other pollutant within the meaning of section 502(6) of the CWA, 33 U.S.C. §1362(6).

C. INFORMATION REQUEST

Provide the following information for the Facility. Unless otherwise specified, provide all responsive information for the time period between January 1, 2014 and the date of your receipt of this Information Request.

1. Provide the name and address of the legal owner of the Facility. If the owner and operator of the Facility are not the same entity, provide the name and address of the operator of the Facility and provide contracts/legal documents between entities as they relate to ownership, purchase or buy-back agreements, and operation of the Facility.
2. If you are the owner of the Facility, specify the date you purchased the Facility and the name and contact information of the previous owner of the Facility.
3. Provide the address of any other properties owned and/or operated by Respondent in Alaska, Idaho, Oregon, and/or Washington. Provide a description of the nature of any activities performed at those locations.
4. Identify and describe all "work activity" conducted at the Facility.
5. On a map, delineate, to the extent known, any wetland boundary areas at the Facility.
6. Describe any proposed or planned activity likely to take place at the Facility within the next five years.
7. Submit copies of any Stormwater Pollution Prevention Plan (SWPPP) associated with this Facility, including the SWPPP map(s).
8. Provide any additional information, not specifically requested herein, that may be relevant to resolving this matter.

### **Gravel Mining - Excavation**

9. For any activity at the Facility involving gravel mining or excavation, please provide the following information:
- a) location of the activity by legal description, survey, map, etc.;
  - b) approximate commencement and completion dates of the activity;
  - c) approximate acreage, linear feet, height/depth disturbed and approximate volume (cubic yards) of materials excavated and/or discharged;
  - d) identify the type(s), rivers, tributaries, sloughs, wetlands, etc. and amount(s) of aquatic resource impacted by the activity;
  - e) the person(s) authorizing the activity;
  - f) the person(s) performing the activity;
  - g) the person(s) providing consideration for the activity to be performed and copies of any receipts or other evidence of transactions for the activity to be performed;
  - h) the specific machinery and equipment used to perform the activity and identify its ownership;
  - i) the purpose and need of the activity;
  - j) copies of any and all correspondence, authorizations, or permits obtained from any Federal, State, or local government agency authorizing development of the Facility or pertaining, in any way, to the activity; and
  - k) copies of all sketches, plans, and as-built drawings related to the planning and construction of the activity.
10. If you have not applied for a CWA Section 404 permit for this activity, provide a detailed explanation of your reasons for not obtaining a CWA Section 404 permit prior to beginning the activity at the Facility.
11. If you have not applied for a CWA Section 402 permit for this activity, provide a detailed explanation of your reasons for not obtaining a CWA Section 402 permit prior to the activity at the Facility.

### **Gravel Washing**

12. For any activity at the Facility involving gravel washing, please provide the following information:
- a) location of the activity by legal description, survey, map, etc.;
  - b) approximate commencement and completion dates of the activity;
  - c) approximate acreage, linear feet, height/depth disturbed and approximate volume (cubic yards) of materials excavated and/or discharged;
  - d) identify the type(s), rivers, tributaries, sloughs, wetlands, etc. and amount(s) of aquatic resource impacted by the activity;
  - e) the person(s) authorizing the activity;
  - f) the person(s) performing the activity;
  - g) the person(s) providing consideration for the activity to be performed and copies of any receipts or other evidence of transactions for the activity to be performed;

- h) the specific machinery and equipment used to perform the activity and identify its ownership;
  - i) the purpose and need of the activity;
  - j) copies of any and all correspondence, authorizations, or permits obtained from any Federal, State, or local government agency authorizing development of the Facility or pertaining, in any way, to the activity; and
  - k) copies of all sketches, plans, and as-built drawings related to the planning and construction of the activity.
13. If you have not applied for a CWA Section 404 permit for this activity, provide a detailed explanation of your reasons for not obtaining a CWA Section 404 permit prior to beginning the activity at the Facility.
14. If you have not applied for a CWA Section 402 permit for this activity, provide a detailed explanation of your reasons for not obtaining a CWA Section 402 permit prior to the activity at the Facility.

### **Roads**

15. For any activity at the Facility involving road building, please provide the following information:
- a) location of the activity by legal description, survey, map, etc.;
  - b) approximate commencement and completion dates of the activity;
  - c) approximate acreage, linear feet, height/depth disturbed and approximate volume (cubic yards) of materials excavated and/or discharged;
  - d) identify the type(s), rivers, tributaries, sloughs, wetlands, etc. and amount(s) of aquatic resource impacted by the activity;
  - e) the person(s) authorizing the activity;
  - f) the person(s) performing the activity;
  - g) the person(s) providing consideration for the activity to be performed and copies of any receipts or other evidence of transactions for the activity to be performed;
  - h) the specific machinery and equipment used to perform the activity and identify its ownership;
  - i) the purpose and need of the activity;
  - j) copies of any and all correspondence, authorizations, or permits obtained from any Federal, State, or local government agency authorizing development of the Facility or pertaining, in any way, to the activity; and
  - k) copies of all sketches, plans, and as-built drawings related to the planning and construction of the activity.
16. If you have not applied for a CWA Section 404 permit for this activity, provide a detailed explanation of your reasons for not obtaining a CWA Section 404 permit prior to beginning the activity at the Facility.



17. If you have not applied for a CWA Section 402 permit for this activity, provide a detailed explanation of your reasons for not obtaining a CWA Section 402 permit prior to the activity at the Facility.

### **Culverts**

18. For any activity at the Facility involving culvert placement, please provide the following information:
- a) location of the activity by legal description, survey, map, etc.;
  - b) approximate commencement and completion dates of the activity;
  - c) approximate acreage, linear feet, height/depth disturbed and approximate volume (cubic yards) of materials excavated and/or discharged;
  - d) length of time the materials referenced in C.18.c) remained in-place;
  - e) identify the type(s), rivers, tributaries, sloughs, wetlands, etc. and amount(s) of aquatic resource impacted by the activity;
  - f) the person(s) authorizing the activity;
  - g) the person(s) performing the activity;
  - h) the person(s) providing consideration for the activity to be performed and copies of any receipts or other evidence of transactions for the activity to be performed;
  - i) the specific machinery and equipment used to perform the activity and identify its ownership;
  - j) the purpose and need of the activity;
  - k) copies of any and all correspondence, authorizations, or permits obtained from any Federal, State, or local government agency authorizing development of the Facility or pertaining, in any way, to the activity; and
  - l) copies of all sketches, plans, and as-built drawings related to the planning and construction of the activity.
19. If you have not applied for a CWA Section 404 permit for this activity, provide a detailed explanation of your reasons for not obtaining a CWA Section 404 permit prior to beginning the activity at the Facility.
20. If you have not applied for a CWA Section 402 permit for this activity, provide a detailed explanation of your reasons for not obtaining a CWA Section 402 permit prior to the activity at the Facility.

### **Waterway Crossing**

21. For any activity at the Facility involving constructing a bridge or waterway crossing, please provide the following information:
- a) location of the activity by legal description, survey, map, etc.;
  - b) approximate commencement and completion dates of the activity;
  - c) approximate acreage, linear feet, height/depth disturbed and approximate volume (cubic yards) of materials excavated and/or discharged;
  - d) length of time the materials referenced in C.21.c) remained in-place;

- e) identify the type(s), rivers, tributaries, sloughs, wetlands, etc. and amount(s) of aquatic resource impacted by the activity;
  - f) identify the person(s) authorizing the activity;
  - g) identify the person(s) performing the activity;
  - h) identify the person(s) providing consideration for the activity to be performed and copies of any receipts or other evidence of transactions for the activity to be performed;
  - i) identify the specific machinery and equipment used to perform the activity and identify its ownership;
  - j) identify the purpose and need of the activity;
  - k) copies of any and all correspondence, authorizations, or permits obtained from any Federal, State, or local government agency authorizing development of the Facility or pertaining, in any way, to the activity; and
  - l) identify and submit copies of all sketches, plans, and as-built drawings related to the planning and construction of the activity.
22. If you have not applied for a CWA Section 404 permit for this activity, provide a detailed explanation of your reasons for not obtaining a CWA Section 404 permit prior to beginning the activity at the Facility.
23. If you have not applied for a CWA Section 402 permit for this activity, provide a detailed explanation of your reasons for not obtaining a CWA Section 402 permit prior to the activity at the Facility.

### **Gravel Storage**

24. For any activity at the Facility involving storage of gravel material, please provide the following information:
- a) location of the activity by legal description, survey, map, etc.;
  - b) approximate commencement and completion dates of the activity;
  - c) approximate acreage, linear feet, height/depth disturbed and approximate volume (cubic yards) of materials excavated and/or discharged;
  - d) identify the type(s), rivers, tributaries, sloughs, wetlands, etc. and amount(s) of aquatic resource impacted by the activity;
  - e) the person(s) authorizing the activity;
  - f) the person(s) performing the activity;
  - g) the person(s) providing consideration for the activity to be performed and copies of any receipts or other evidence of transactions for the activity to be performed;
  - h) the specific machinery and equipment used to perform the activity and identify its ownership;
  - i) the purpose and need of the activity;
  - j) copies of any and all correspondence, authorizations, or permits obtained from any Federal, State, or local government agency authorizing development of the Facility or pertaining, in any way, to the activity; and
  - k) copies of all sketches, plans, and as-built drawings related to the planning and construction of the activity.

25. If you have not applied for a CWA Section 404 permit for this activity, provide a detailed explanation of your reasons for not obtaining a CWA Section 404 permit prior to beginning the activity at the Facility.
26. If you have not applied for a CWA Section 402 permit for this activity, provide a detailed explanation of your reasons for not obtaining a CWA Section 402 permit prior to the activity at the Facility.

### **Flood Control**

27. For any activity at the Facility involving excavation or other activities for flood control purposes, please provide the following information:
  - a) location of the activity by legal description, survey, map, etc.;
  - b) approximate commencement and completion dates of the activity;
  - c) approximate acreage, linear feet, height/depth disturbed and approximate volume (cubic yards) of materials excavated and/or discharged;
  - d) identify the type(s), rivers, tributaries, sloughs, wetlands, etc. and amount(s) of aquatic resource impacted by the activity;
  - e) the person(s) authorizing the activity;
  - f) the person(s) performing the activity;
  - g) the person(s) providing consideration for the activity to be performed and copies of any receipts or other evidence of transactions for the activity to be performed;
  - h) the specific machinery and equipment used to perform the activity and identify its ownership;
  - i) the purpose and need of the activity;
  - j) copies of any and all correspondence, authorizations, or permits obtained from any Federal, State, or local government agency authorizing development of the Facility or pertaining, in any way, to the activity; and
  - k) copies of all sketches, plans, and as-built drawings related to the planning and construction of the activity.
28. If you have not applied for a CWA Section 404 permit for this activity, provide a detailed explanation of your reasons for not obtaining a CWA Section 404 permit prior to beginning the activity at the Facility.
29. If you have not applied for a CWA Section 402 permit for this activity, provide a detailed explanation of your reasons for not obtaining a CWA Section 402 permit prior to the activity at the Facility.

### **Agricultural Activities**

30. For any activity at the Facility involving activities for agricultural purposes, please provide the following information:
  - a) location of the activity by legal description, survey, map, etc.;
  - b) approximate commencement and completion dates of the activity;

- c) approximate acreage, linear feet, height/depth disturbed and approximate volume (cubic yards) of materials excavated and/or discharged;
  - d) identify the type(s), rivers, tributaries, sloughs, wetlands, etc. and amount(s) of aquatic resource impacted by the activity;
  - e) the person(s) authorizing the activity;
  - f) the person(s) performing the activity;
  - g) the person(s) providing consideration for the activity to be performed and copies of any receipts or other evidence of transactions for the activity to be performed;
  - h) the specific machinery and equipment used to perform the activity and identify its ownership;
  - i) the purpose and need of the activity;
  - j) copies of any and all correspondence, authorizations, or permits obtained from any Federal, State, or local government agency authorizing development of the Facility or pertaining, in any way, to the activity; and
  - k) copies of all sketches, plans, and as-built drawings related to the planning and construction of the activity; including pivot installation and grazing locations.
31. If you have not applied for a CWA Section 404 permit for this activity, provide a detailed explanation of your reasons for not obtaining a CWA Section 404 permit prior to beginning the activity at the Facility.
32. If you have not applied for a CWA Section 402 permit for this activity, provide a detailed explanation of your reasons for not obtaining a CWA Section 402 permit prior to the activity at the Facility.

### **Other Activities**

33. For any other activity at the Facility identified in response to question C.4, please provide the following information:
- a) location of the activity by legal description, survey, map, etc.;
  - b) approximate commencement and completion dates of the activity;
  - c) approximate acreage, linear feet, height/depth disturbed and approximate volume (cubic yards) of materials excavated and/or discharged;
  - d) identify the type(s), rivers, tributaries, sloughs, wetlands, etc. and amount(s) of aquatic resource impacted by the activity;
  - e) the person(s) authorizing the activity;
  - f) the person(s) performing the activity;
  - g) the person(s) providing consideration for the activity to be performed and copies of any receipts or other evidence of transactions for the activity to be performed;
  - h) the specific machinery and equipment used to perform the activity and identify its ownership;
  - i) the purpose and need of the activity;
  - j) copies of any and all correspondence, authorizations, or permits obtained from any Federal, State, or local government agency authorizing development of the Facility or pertaining, in any way, to the activity; and

- k) copies of all sketches, plans, and as-built drawings related to the planning and construction of the activity.
- 34. If you have not applied for a CWA Section 404 permit for this activity, provide a detailed explanation of your reasons for not obtaining a CWA Section 404 permit prior to beginning the activity at the Facility.
- 35. If you have not applied for a CWA Section 402 permit for this activity, provide a detailed explanation of your reasons for not obtaining a CWA Section 402 permit prior to the activity at the Facility.

**Trucking/Hauling Activities**

- 36. It is EPA's understanding that you operate an active interstate trucking and/or hauling business from the Facility under U.S. Department of Transportation Number 604404. For that activity at the Facility, please provide the following information:
  - a) general description of the nature of the activity;
  - b) approximate commencement dates of the activity;
  - c) description of the nature of the materials hauled and the source of those materials;
  - d) identify the type(s), rivers, tributaries, sloughs, wetlands, etc. and amount(s) of aquatic resource impacted by the activity;
  - e) if gravel is hauled from the Facility, provide the approximate average volume (cubic yards) of gravel hauled annually;
  - f) if gravel is hauled to the Facility, provide the approximate average volume (cubic yards) of gravel hauled annually;
  - g) the person(s) authorizing the activity;
  - h) the person(s) performing the activity;
  - i) the person(s) providing consideration for the activity to be performed and copies of any receipts or other evidence of transactions for the activity to be performed;
  - j) the specific machinery and equipment used to perform the activity and identify its ownership;
  - k) the purpose and need of the activity; and
  - l) the approximate annual revenue resulting from that activity.

**Enclosure 2**

**STATEMENT OF CERTIFICATION**

Ace Black Ranches, LLP  
28892 Hot Springs Road  
Bruneau, Idaho 83604

I certify that the enclosed responses to EPA's Information Request issued to Ace Black Ranches, LLP are true, accurate, and complete. I certify that the portions of these responses which I did not personally prepare were prepared by persons acting on behalf of Ace Black Ranches, LLP under my supervision and at my instruction, and that the information provided is true, accurate, and complete. I am aware that there are significant penalties for submitting false information in response to this Information Request, including the possibility of fines and imprisonment.

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Signature

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Printed Name

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Title

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Date